## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA EASTERN DIVISION

No. 4:09-CV-189-FL

THE MAINSTREET COLLECTION, INC.,	)	
Plaintiff,	)	
v.	)	ORDER
KIRKLAND'S, INC.; KIRKLAND'S STORES, INC.; and KIRKLANDS.COM, INC.,	) ) )	
Defendants.	)	

This matter comes now before the court upon plaintiff's motion to quash and for an order of protection against defendants' noticed deposition for Friday, November 19, 2010 (DE # 144) to which defendants have responded in opposition (148) on expedited schedule ordered by the court. The issues raised are ripe for resolution.

It would certainly be in the best interest of all parties to consolidate the depositions or conduct them in such a manner so as to avoid a second trip to Utah. It would appear that mistakes were made in deposition planning and execution by defendants. Defendants' laxness in confirming scheduling and providing notice likely rested on an assumption of availability of plaintiff's counsel and implied willingness to attend a second day of depositions, which as set forth in plaintiff's supporting materials is not true.

In its discretion, having considered the arguments of the parties, the undersigned rules in favor of plaintiff and grants the relief requested. The notice is quashed and plaintiff protected where defendants are precluded from deposing Mountain Mamas November 19, 2010. Perhaps if

defendants are willing now to pay the costs of plaintiff's lawyers' nonrefundable airfare, and the sides take opportunity today to reconsider scheduling, the efficiencies and savings associated with a consolidated deposition schedule may still be realized.

SO ORDERED, this the 17th day of November, 2010.

LOUISE W. FLANAGAN

Chief United States District Judge